**IN THE HIGH COURT OF UTTARANCHAL**
**AT NAINITAL**

First Appeal No. 67 of 2001
(Old No. 195 of 1988)

1. State of U.P. through Secretary
   Education, Government of U.P.
   Lucknow
2. Director of Higher Education, U.P.
   Allahabad
3. Principal, Government P.G. College
   Gopeshwar (Chamoli) … Appellants

Vs

Sri Balwant Singh Negi
S/o Sri Moti Singh
Lecturer in Physics
Government P.G. College
Gopeshwar (Chamoli) …….. Respondent

Sri R.C. Arya, learned Standing Counsel for the State
Sri Pankaj Purohit, learned counsel for the respondent

**Hon'ble B.C. Kandpal, J.**

This first appeal has been filed against the judgment and decree dated 24.12.1987 passed by District Judge, Chamoli in Original Suit No. 25 of 1986 Balwant Singh Negi Vs State of U.P. & others.

2. Brief facts of the case as emerged out from the record are that the plaintiff/respondent- Balwant Singh Negi filed a suit for the recovery of Rs. 15,179/- on the ground that he was working as a lecturer in Post Graduate Government College, Gopeshwar and during his work he was allowed to carry his research work under Teacher Fellowship Scheme at Jawaharlal Nehru University, New Delhi (hereinafter referred as "University"). The State Government and the University Grants Commission consented to the research study of the plaintiff/respondent and he accordingly, joined the University on 04.11.1981. The plaintiff/respondent after completion of

the research work again joined his college at Gopeshwar on 02.02.1985.

3. The plaintiff/respondent was getting all his monthly salaries including dearness allowances and increments etc. from the employer in view of the terms of the agreement and the bond. As the defendants/appellants stop paying the salary and the other allowances to the plaintiff/respondent from 01.11.1983, therefore, the plaintiff/respondent issued the notice to the defendants/appellants under Section 80 C.P.C. on 18.01.1986. The defendants/appellants after the receipt of the notice paid the salary to the plaintiff/respondent for the period from 01.11.1983 to 31.10.1984.

4. The plaintiff/respondent by way of the suit claimed the salaries for the period from 01.11.1984 to 31.01.1985 amounting to Rs. 8,265/- and interest @ Rs. 9% per annum for the wrongful withholding of his salaries. The plaintiff/ respondent also claimed the amount of expenses and thus in total claimed for a sum of Rs. 15,179.00 was made by the plaintiff/respondent in his suit.

5. The defendants/appellants filed the written statement pleading therein that the facility of the Fellowship was cancelled by the Director, Higher Education U.P. on 06.11.1983 and thus salary was not paid to the plaintiff/respondent from 01.11.1983. It was also pleaded that the claim of the plaintiff/respondent of his salary from 01.11.1984 to 31.01.1985 is beyond the terms of Fellowship. It was also pleaded that the plaintiff/respondent should have filed the claim before the U.P. Services Tribunal.

6. The trial court on the basis of the pleadings filed by the both the parties framed following issues:-

1. Whether the plaintiff's fellowship was extended for three months with the intimation to the defendants?
2. Whether the plaintiff worked there during this extended period.
3. Whether the defendants are liable to pay the salary to the plaintiff for the period from 01.11.1984 to 31.01.1985?
4. Whether the terms of the defendants do not permit the payment of the salary of this period to the plaintiff?
5. To what amounts, interest and relief is the plaintiff entitled?

7. Both the parties in support to their case produced evidence and thereafter, the trial court after having considered the arguments advanced by the learned counsel for both the parties and perusing the material available on record decreed the suit of the plaintiff/respondent for the recovery of Rs. 14,979.04. The trial court also awarded pendentilite and further interest @ 9% per annum vide judgment and decree dated 24.12.1987.

8. Feeling aggrieved by the aforesaid judgment and decree, this appeal has been preferred by the defendants/appellants before the Allahabad High Court, which has been transferred to this Court after creation of separate State.

9. Heard Sri R.C. Arya, learned Standing Counsel for the State, Sri Pankaj Purohit, learned counsel for the respondent and perused the record.

10. The record reveals that the University Grants Commission agreed to reimburse State Government for the salary etc. being paid to the appointee in the college on the post of plaintiff/respondent- Balwant Singh Negi while he was at New Delhi to carry research work under the Teachers Research Fellowship Scheme.

11. The record also shows that vide Ext. Ka. 3 the University issued the letter showing there that Balwant Singh Negi was awarded the Teacher Fellowship for three years. Further Ext. Ka. 2 is the bond executed between the State Government and the plaintiff/respondent - Balwant Singh Negi.

12. The record further reveals that on 13.09.1984 the guide of the plaintiff/respondent as well as Dean of the faculty recommended for the extension of the Teacher Fellowship for a period of three months in order to facilitate the plaintiff/respondent to complete the work at University. Further the University had also informed the Government Post Graduate College, Gopeshwar along with the copy of the letter of the University Grants Commission stating therein that the Fellowship of the plaintiff/respondent was extended for a period from 06.11.1984 to 05.02.1985.

13. Therefore, all the aforesaid documents clearly establish this aspect that the plaintiff/respondent continued his research work at University during the extended period and he could be relieved in the afternoon on 31.01.1985 as is evident on the basis of the paper Ext. Ka. 13. The letter relating to the extension for a period three months is available on record as Ext. Ka. 7. The agreement shows that the initial

term of the Teachers Fellowship was for three years but it was extended for further three months looking into the factum of the satisfactory progress in the research work as well as with the object that the plaintiff/respondent completes the work of research finally.

14. Ext. Ka. 4 and 5 reveal that University Grants Commission undertook the reimbursement of the salary to the defendants/appellants spent by them on the substituted teacher, working in place of the plaintiff/respondent at the Government Post Graduate College, Gopeshwar.

15. The letter dated 21.02.1984 (Ext. Ka.8) reveals that the University Grants Commission informed the Principal, Post Graduate College that a grant of Rs. 17,000/- was released by University Grants Commission to the College, further Rs. 4,000/- was released to the college and further grant of Rs. 6,000/- was being released as reported by the college vide letter dated 12.09.1983. Ext Ka. 10 is the letter of University Grants Commission, of October 1984 which indicates that the University Grants Commission conveyed that a total amount of Rs. 27,000/- was paid and in addition to that grant further sum of Rs. 799.20 was also being sent in order to make of the clearance of the amount put forth by the college towards payment of the salary of the substituted teachers.

16. In view of the aforesaid evidence available on record, I come to the conclusion that the plaintiff/respondent worked for three extended months at University and he is entitled to get his salary for the aforesaid extended period of three months.

17. Therefore, the trial court has rightly decreed the suit of the plaintiff/respondent and I do not find any infirmity in the impugned judgment and decree passed by the trial court.

18. The first appeal lacks merit and is liable to be dismissed.

19. Accordingly, the first appeal is dismissed with costs.

**(B.C. Kandpal, J.)**

19.09.2006
ASWAL